

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FIELDTURF USA, INC. and)
FIELDTURF TARKETT, INC.,)
Plaintiffs,)
v.) C.A. No. 08-11214-MLW
)
DAVID W. WHITE AND SON, INC.,)
Defendant.)

ORDER

WOLF, D.J.

December 12, 2008

On September 17, 2008, the defendant filed a Motion for Summary Judgment in lieu of an Answer to the Complaint. There has been no discovery taken. The plaintiff has filed an affidavit stating, and for present purposes adequately showing, that it is unable to respond fully and fairly to the Motion for Summary Judgment with the facts currently in its possession. Therefore, the Motion for Summary Judgment is being denied without prejudice. See Fed. R. Civ. P. 56(f)(1).

Therefore, it is hereby ORDERED that:

1. The Defendant's Motion for Summary Judgment (Docket No. 12) is DENIED.

2. The Plaintiff's Motion for a Continuance and for Leave to Take Limited Discovery on an Expedited Basis (Docket No. 16) is MOOT.

3. Pursuant to Federal Rule of Civil Procedure 12(a)(4)(A), the Defendant shall file an Answer to the Complaint within 10 days.

4. The parties shall comply with the attached Order concerning the Scheduling Conference, which will be held on January 16, 2009, at 4:00 p.m. The parties shall attempt to agree on whether a motion for summary judgment should be considered before the completion of all discovery and, in any event, a description and schedule for limited discovery essential to the proper development of the record on the issues the defendant asserts will be dispositive.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE